

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

IN RE: HAROLD WILLIAM VAN
ALLEN,

Plaintiff.

CV 20-68-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on Plaintiff Harold William Van Allen's Complaint of Judicial Misconduct or Disability on June 18, 2020. (Doc. 2). The Magistrate recommended the matter be dismissed for lack of subject matter jurisdiction. (*Id.* at 4).

Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendations. Federal Rule of Civil Procedure 6(d) extends that period by 3 days when a party is served by mail. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and

firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

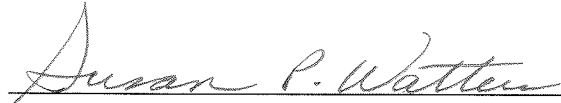
After reviewing the Findings and Recommendations, this Court does not find that the Magistrate committed clear error. Plaintiff Van Allen filed his judicial misconduct complaint on May 15, 2020. He has not filed any other document or motion since that time. He has also not paid the applicable filing fee or filed to proceed in forma pauperis.

The Magistrate recommends dismissing the complaint for failure to state a basis for federal relief, failure to identify any legal claims, and failure to demand relief as required under Rule 8(a) of the Federal Rules of Civil Procedure. Plaintiff Van Allen’s complaint fails to allege any factual allegations at all and, therefore, the question presented is “too insubstantial to consider” under this Court’s subject matter jurisdiction. *Cook v. Peter Kiewit Sons Co.*, 775 F.2d 1030, 1035 (9th Cir. 1985). Under Rule 12(h)(3) of the Federal Rules of Civil Procedure, this Court must dismiss the complaint for lack of subject matter jurisdiction.

IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 2) are ADOPTED IN FULL.

The Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

DATED this 19th day of August, 2020.



SUSAN P. WATTERS
United States District Judge